

Senate Bill No. 349

Passed the Senate September 1, 2011

Secretary of the Senate

Passed the Assembly August 31, 2011

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 22303, 22404, 22851, 22905, 23006, 23100, 23101, 23103, 23104, 23801, 23802, 23851, 23852, 23854, 24001, 24002, 24003, 24102, 24103, 24201.5, 24204, 24205, 24214, 24214.5, 24300.1, 24309, 24600, 25012, 26301, 26302, and 26303 of, to add Sections 22161.3, 22853.5, 26812, and 26813 to, and to repeal Section 26505 of, the Education Code, relating to teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 349, Negrete McLeod. State Teachers' Retirement Plan.

(1) Existing law permits the Teachers' Retirement Board, which administers the State Teachers' Retirement System (STRS) and the State Teachers' Retirement Plan, to establish an amount, not to exceed \$10, below which the system may dispense with the processing of benefit payments or the collection of benefit overpayments.

This bill would extend this authority to other payments and overpayments provided under the plan in addition to those related to benefits.

(2) Existing law permits STRS to contract with employers in the system to provide retirement counseling and provides that documents received in this connection by an official contracted office or by a benefits counselor, as specified, are deemed to have been received by the STRS headquarters.

This bill would revise these provisions to clarify that employees of the system may provide these retirement counseling services and would make conforming changes.

(3) Existing law grants a member of STRS who returns to employment after performing uniformed services, as defined, certain rights and benefits, including treatment as if there were no break in the member's service to his or her employers for the period of the uniformed services and having that period of uniformed service count towards vesting and eligibility in the defined benefit program.

This bill would extend certain of these rights and benefits to a member who dies during uniformed services, would require that

qualified military service, as defined, be counted for the purpose of vesting and eligibility for membership if the member dies during that service, and would prescribe how this service is to be calculated. The bill would permit this service to apply to the payment of certain death benefits to a beneficiary, and to survivor benefits, under specified circumstances.

(4) Existing law permits the Teachers' Retirement Board to assess penalties against employers participating in the Defined Benefit Program or the Cash Balance Benefit Program if the employers fail to provide monthly reports in an acceptable form. Existing law provides that the amount of the penalties is based on the sum of the employer and employee contributions required, as specified, at a rate of interest equal to the regular interest rate or a fee of \$500, whichever is greater.

This bill would delete the reference to the \$500 fee and base the penalties solely on the contributions and rate of interest, as described above. The bill would also authorize the assessment of penalties, as specified, for late or improper contribution adjustments with regard to the Cash Balance Benefit Program, and would deem these amounts as interest earned.

(5) Existing law requires, upon a termination of a member's employment by any cause other than death, disability, or retirement, that certain amounts be paid to the member, including his or her accumulated retirement contributions and annuity deposits.

This bill would require that these payments be made upon termination of employment generally and the member's election to be paid. The bill would authorize a reduction in the payment of accumulated retirement benefits by the amount of retirement or disability benefits paid. The bill would also provide that specified beneficiary designations would be invalidated upon a refund of accumulated retirement contributions and would prescribe how the refund request would be made or determined by the board.

(6) Existing law permits a member of STRS to apply for a disability allowance if certain requirements are met, including that the member has neither attained normal retirement age, nor possesses sufficient unused sick leave days to receive creditable compensation on account of sick leave to reach normal retirement age.

This bill would make technical changes in these provisions.

(7) Existing law requires a member of STRS to provide medical documentation to substantiate the impairment qualifying the member for a disability allowance or retirement. Existing law permits the system to order a medical examination of a member to determine whether the member is incapacitated for performance of service and prescribes procedures for this purpose.

This bill would also authorize the system to order also a review of medical documentation in this regard. The bill would also make technical changes these provisions.

(8) Existing law prescribes the conditions under which a STRS service retirement allowance becomes effective and requires, in this regard, that the effective date be no earlier than the first day of the month in which the application is received at the system's headquarters office.

This bill would make various technical changes in the requirements that a member must meet for a service requirement to become effective in specified situations, including instances when service credit is purchased and when an application for disability benefits is made.

(9) Existing law permits a member retiring prior to 60 years of age, who has attained 55 years of age, to elect to receive $\frac{1}{2}$ of the service retirement allowance for normal retirement age for a limited time and then revert to the full retirement allowance for normal retirement age. Existing law excepts from this authorization members retiring for service pending a disability.

This bill would also except from this authorization members retiring for service following reinstatement, members who perform creditable service for 2 or more years after reinstatement, and members who retire after a prior disability retirement is terminated, among others.

(10) Existing law permits a retired member of STRS to perform specified activities as an employee of an employer in the system, as an employee of a 3rd party, or as an independent contractor within the California public school system, but prohibits the member from making contributions to the retirement fund or accruing service credit based on compensation earned from that service. Existing law conditions this authorization on a variety of factors including limitations on the rate of pay of the member and the total amount of compensation.

This bill would also permit a retired member, pursuant to the limitations described above, to perform the work of county and district superintendents who are responsible for the supervision of persons or administration of certain duties and to perform trustee work for the Cash Balance Benefit Program.

(11) Existing law permits a member of STRS, prior to the effective date of his or her retirement, to elect an option that provides an actuarially modified retirement allowance payable throughout the life of the member and the member's option beneficiary or beneficiaries. Existing law also prescribes how a member may change or cancel these options.

This bill would revise when these designations, changes, or cancellations must be submitted.

(12) Existing law provides that a child's portion of a STRS retirement allowance begins to accrue on the effective date of that allowance and ceases on the earlier of either the termination of the child's eligibility or the termination of the allowance.

This bill would prescribe when a child's portion of a disability retirement allowance terminates.

(13) Existing law establishes the Cash Balance Benefit Program, administered by the State Teachers' Retirement Board, as a separate benefit program within the State Teachers' Retirement Plan.

This bill would permit a member retired for service under the Cash Balance Benefit Program to perform specified activities as an employee of an employer in the system, as an employee of a 3rd party, or as an independent contractor within the California public school system, but would prohibit the member from making contributions to the retirement fund. The bill would condition this authorization on a variety of factors including limitations on the rate of pay of the member and the total amount of compensation, as well as on the employer maintaining accurate records in this regard, among other things. The bill would also repeal provisions that require that a participant in the Cash Balance Benefit Program who becomes reemployed under certain conditions have his or her annuity terminated.

The people of the State of California do enact as follows:

SECTION 1. Section 22161.3 is added to the Education Code, to read:

22161.3. Qualified military service is military service as defined in Section 414(u) of Title 26 of the United States Code.

SEC. 2. Section 22303 of the Education Code is amended to read:

22303. (a) Due to an increase in the demand for retirement counseling services, the system, notwithstanding any other provision of law, may contract with a county superintendent or other employer to provide retirement counseling. Retired public employees may be employed on a part-time basis for that purpose, unless and until the study required by subdivision (b) of Section 7 of Chapter 1532 of the Statutes of 1985 recommends against the employment of retired public employees for these purposes. This authorization is subject to the availability of funds appropriated for that purpose in the annual Budget Act.

(b) The board may, by resolution, designate one or more official representatives who provide retirement counseling pursuant to subdivision (a), or as an employee of the system, to receive documents submitted pursuant to this part, Part 13.5 (commencing with Section 25900), or Part 14 (commencing with Section 26000). Notwithstanding any other provision of law, any document received by a designated system representative during regular counseling office business hours or in the course of performing counseling services pursuant to this subdivision shall be deemed to have been received by the system's headquarters office, as established pursuant to Section 22375, on the date received by the officially designated system representative.

SEC. 3. Section 22404 of the Education Code is amended to read:

22404. (a) Notwithstanding any other provision of this part or Part 14 (commencing with Section 26000) to the contrary, the board may establish by plan amendment a specified amount or amounts, not to exceed ten dollars (\$10), below which the system may dispense with the processing of benefit or other payments or collection of benefit or other overpayments that result from adjustments made to the benefit or other amount paid to a member, participant, or beneficiary.

(b) When the cumulative dollar amount associated with one or more benefit or other adjustments equals or exceeds the amount described in subdivision (a), that amount shall be paid to, or collected from, the member, participant, or beneficiary. That

cumulative amount paid or collected shall not be credited with interest.

SEC. 4. Section 22851 of the Education Code is amended to read:

22851. The right to pension benefits under this part of a member who dies or who returns to employment with the same employer which had employed the member immediately prior to the eligible period of service in the uniformed services, and is subject to Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code shall be determined under this section.

(a) (1) A reemployed or deceased member shall be treated as not having incurred a break in service by reason of that member's eligible period or periods of service in the uniformed services.

(2) (A) Each eligible period of service served by a member in the uniformed services shall, upon return to employment, with the same employer which had employed the member immediately prior to the eligible period of service in the uniformed services, or upon death, be deemed to constitute service with the employer or employers toward plan vesting and eligibility for membership in the Defined Benefit Program.

(B) In cases of death during qualified military service, service shall be calculated under Section 22853.5 and shall be used exclusively for plan vesting and eligibility for membership purposes. Service that is deemed to the member in this way shall not be used for benefit calculations based on service credit balances.

(3) A member who returns to employment, with the same employer which had employed the member immediately prior to the eligible period of service in the uniformed services shall not be entitled to any benefits under this part in respect of service in the uniformed services to which the member would not otherwise have been entitled had the member remained continuously employed and not undertaken such service in the uniformed services.

(b) For purposes of calculating benefits, a member who returns to employment with the same employer which had employed the member immediately prior to the eligible period of service in the uniformed services shall be entitled to service credit under this part for the eligible period of service in the uniformed services upon his or her payment of the member contributions required

under Section 22901 that otherwise would have been due for such period of service had the member remained continuously employed and not undertaken such service in the uniformed services. No such payment of member contributions may exceed the amount the member would have been required to contribute under this part had the member not served in the uniformed services and had remained continuously employed by the employer throughout the eligible period of service in the uniformed services. If a member fails to remit the member contributions that would have been required under Section 22901 in respect of the eligible period of service in the uniformed services no service credit shall be provided under this part for the period to which the omitted contributions relate.

(c) Any payment of member contributions to the Defined Benefit Program in this section shall be made by the member during the period beginning with the date of return to employment and may continue for three times the period of the member's eligible service in the uniformed services, not to exceed five years. Any payment of member contributions to the Defined Benefit Program in this section by a member who returned to employment prior to January 1, 1997, and qualifies for benefits in accordance with the federal Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. Secs. 4301 to 4335, incl.) shall be made by the member during the period beginning with the date of notification of eligibility by the employer to the system and may continue for three times the period of the member's eligible service in the uniformed services, not to exceed five years. Any subsequent request to purchase this service shall be subject to the provisions of Chapter 14 (commencing with Section 22800). If all contributions due under this part are not paid to the plan with respect to the Defined Benefit Program within the specified repayment period and in accordance with subdivision (b) of Section 22851 the contributions shall be returned to the member at the end of the repayment period. Interest on member contributions made for the eligible period of service in the uniformed services shall not be credited under this part until after the contributions due are paid and then only prospectively to the member's account in accordance with Section 22216.

SEC. 5. Section 22853.5 is added to the Education Code, to read:

22853.5. For purposes of computing service to award to members who die during qualified military service, service shall be computed as follows:

(a) The service credit the member would have received for the eligible period of service through the beginning of the period of qualified military leave through the date of death.

(b) In the event the service credit earnable is not reasonably certain, vesting credit shall be based on the member's average service credit earned during the 12-month period immediately preceding the eligible period of service in the uniformed services or, if shorter, the period of employment immediately preceding that period of service.

SEC. 6. Section 22905 of the Education Code is amended to read:

22905. (a) Member contributions pursuant to Section 22901, employer contributions pursuant to Section 22903 or 22904, and member contributions made by an employer pursuant to Section 22909 shall be credited to the member's individual account under the Defined Benefit Program or the Defined Benefit Supplement Program, whichever is applicable pursuant to the provisions of this part.

(b) Member and employer contributions, exclusive of contributions pursuant to Section 22951, on a member's compensation under the following circumstances shall be credited to the member's Defined Benefit Supplement account:

(1) Compensation for creditable service that exceeds one year in a school year.

(2) Compensation that is consistent with subdivision (b) of Section 22119.2.

(3) Compensation that is payable for a specified number of times as limited by law, a collective bargaining agreement, or an employment agreement.

(c) A member may not make voluntary pretax or posttax contributions under the Defined Benefit Supplement Program, except as provided in subdivision (d), nor may a member redeposit amounts previously distributed based on the balance in the member's Defined Benefit Supplement account.

(d) Member and employer contributions pursuant to paragraph (1) of subdivision (b) under the Defined Benefit Supplement Program shall be credited to the accounts of members as of July

1 each year following a determination by the system under the provisions of this part that those contributions should be credited to the Defined Benefit Supplement Program. Any other contributions under the Defined Benefit Supplement Program pursuant to paragraph (2) or (3) of subdivision (b), shall be credited to the individual account of the member upon receipt by the system. Contributions to a member's Defined Benefit Supplement account shall be identified separately from the member's contributions credited under the Defined Benefit Program.

(e) The provisions of this section shall become operative on July 1, 2002, if the revenue limit cost-of-living adjustment computed by the Superintendent of Public Instruction for the 2001–02 fiscal year is equal to or greater than 3.5 percent. Otherwise this section shall become operative on July 1, 2003.

SEC. 7. Section 23006 of the Education Code is amended to read:

23006. (a) If a county superintendent of schools or employing agency or school district or community college district that reports directly to the system, submits monthly reports, as specified by Section 23004, late, as defined in Section 23005, or in unacceptable form, the board shall, in accordance with regulations, assess penalties.

(b) The board shall, in accordance with regulations, assess penalties, based on the sum of the employer and employee contributions required under this part by the report, for late or unacceptable submission of reports, at a rate of interest equal to the regular interest rate.

SEC. 8. Section 23100 of the Education Code is amended to read:

23100. (a) Upon termination of employment, a member may elect to be paid, pursuant to this part, each of the following:

(1) The member's accumulated retirement contributions made after June 30, 1935.

(2) The member's accumulated annuity deposit contributions.

(3) An amount equal to the balance of credits in the member's Defined Benefit Supplement account.

(b) Accumulated retirement contributions and accumulated annuity deposit contributions shall include credited interest through the date of payment.

(c) Accumulated retirement contributions shall be reduced by the amount of retirement or disability benefits paid to a member pursuant to this part.

SEC. 9. Section 23101 of the Education Code is amended to read:

23101. (a) When a member's accumulated retirement contributions are refunded, as provided in Section 23100, all rights to benefits pertaining to the service credit represented by those contributions under this part are forfeited. Those rights and benefits, based upon service performed prior to refund, shall not be restored until the member has redeposited the total of the refunded accumulated retirement contributions, and paid the regular interest thereon as provided in Chapter 19 (commencing with Section 23200).

(b) In addition to the rights and benefits described in subdivision (a), any beneficiary designation made by a member pursuant to Chapter 20 (commencing with Section 23300) and Chapter 28 (commencing with Section 24300) under this part shall be invalidated upon the refund of the member's accumulated retirement contributions.

SEC. 10. Section 23103 of the Education Code is amended to read:

23103. Refunds to a member shall be made upon request of the member on a properly executed form prescribed by the system, or may be made without a request if it is determined by the board that the member's employment is permanently terminated and the member does not have enough credited service under the Defined Benefit Program to qualify for service retirement under this part.

SEC. 11. Section 23104 of the Education Code is amended to read:

23104. (a) Deposit in the United States mail of an initial warrant drawn as directed by the member as a refund of contributions upon termination of employment, and addressed to the address directed by the member, constitutes a return of the member's accumulated retirement contributions under this part.

(b) If the member has elected on a form provided by the system to transfer all or a specified portion of the accumulated retirement contributions that are eligible for direct trustee-to-trustee transfer to the trustee of a qualified plan under Section 402 of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 402), deposit in the United

States mail of a notice that the requested transfer has been made constitutes a return of the member's accumulated retirement contributions under this part.

(c) For refunds not involving direct trustee-to-trustee transfers, if the member returns the total gross distribution amount to the system's headquarters office, as established pursuant to Section 22375, within 30 days from the mailing date, the refund shall be canceled and the person shall be restored as a member of the Defined Benefit Program with all the rights and privileges under this part restored.

(d) For refunds involving direct trustee-to-trustee transfers, if the member returns the warrant drawn to the trustee of the qualified plan or the trustee returns the amount of the qualified refund and, if applicable, any additional amounts necessary to equal, but in no event to exceed, the total gross distribution amount to the system's headquarters office, as established pursuant to Section 22375, within 30 days from the mailing date, the refund shall be canceled and the person shall be restored as a member of the Defined Benefit Program with all the rights and privileges under this part restored.

SEC. 12. Section 23801 of the Education Code is amended to read:

23801. (a) A death payment of no less than five thousand dollars (\$5,000) shall be paid to the beneficiary upon receipt of proof of death of a member who had one or more years of credited service, including service deemed to the member under subparagraph (B) of paragraph (2) of subdivision (a) of Section 22851, at least one of which had been earned subsequent to the most recent refund of accumulated retirement contributions, if the member died during any one of the following periods:

(1) While in employment for which creditable compensation is paid.

(2) While disabled, if the disability had been continuous from the last day for which creditable compensation had been paid.

(3) Within four months after termination of creditable service or termination of employment, whichever occurs first.

(4) Within four months after termination of a disability allowance if no service was performed after the termination.

(5) Within 12 months of the last day for which creditable compensation was paid, if the member was on an approved leave of absence without compensation for reasons other than disability.

(6) While on a leave of absence to perform qualified military service, if the death occurred on or after January 1, 2007.

(b) A death payment pursuant to this section shall not be payable for the death of a member that occurs within one year commencing with the effective date of reinstatement from service retirement pursuant to Section 24208.

(c) The board may adjust the death payment amount following each actuarial valuation based on changes in the All Urban California Consumer Price Index and adopt any adjusted amount as a plan amendment.

(d) A beneficiary may waive his or her right to the death payment in accordance with the requirements established by the system.

SEC. 13. Section 23802 of the Education Code is amended to read:

23802. (a) Upon receipt of proof of death of a member who has no preretirement option in effect, and who either does not meet the eligibility requirements set forth in Section 23804, or meets the eligibility requirements set forth in Section 23804 but has no eligible survivors for a family allowance as specified in Section 23805 or 23806, there shall be paid to the beneficiary both of the following:

- (1) The accumulated retirement contributions after July 1, 1935.
- (2) The accumulated annuity deposit contributions.

(b) Accumulated contributions include credited interest through the date of payment.

SEC. 14. Section 23851 of the Education Code is amended to read:

23851. (a) A death payment of not less than twenty thousand dollars (\$20,000) shall be paid to the beneficiary, as designated pursuant to Section 23300, upon receipt of proof of death of a member, who had one or more years of credited service, including service deemed to the member under subparagraph (B) of paragraph (2) of subdivision (a) of Section 22851, at least one of which had been earned subsequent to the most recent refund of accumulated retirement contributions, if the member died during any one of the following periods:

- (1) While in employment for which creditable compensation is paid.

(2) Within four months after termination of creditable service or termination of employment, whichever occurs first.

(3) Within 12 months of the last day for which creditable compensation was paid, if the member was on an approved leave of absence without creditable compensation for reasons other than disability.

(4) While on a leave of absence to perform qualified military service, if the death occurred on or after January 1, 2007.

(b) A death payment pursuant to this section shall not be payable for the death of a member that occurs within one year commencing with the effective date of termination of the service retirement allowance pursuant to Section 24208 or during the six calendar months commencing with the effective date of termination of the disability retirement allowance pursuant to Section 24117.

(c) The board may adjust the death payment amount following each actuarial valuation based on changes in the All Urban California Consumer Price Index and adopt as a plan amendment with respect to the Defined Benefit Program any adjusted amount.

(d) A designated beneficiary may waive the right to the death payment in accordance with the requirements established by the system.

SEC. 15. Section 23852 of the Education Code is amended to read:

23852. Upon receipt of proof of death of a member who has no preretirement option in effect:

(a) The surviving spouse may elect to receive either of the following:

(1) The member's accumulated retirement contributions in a lump sum.

(2) If the member meets the provisions set forth in Section 23854, the survivor benefit allowance pursuant to Sections 23854 and 23855.

(b) If there is no surviving spouse, and the member meets the provisions set forth in Section 23854, then each dependent child shall receive the child's portion of the survivor benefit allowance pursuant to Sections 23854, 23855, and 23856. The child's portion of the survivor benefit allowance shall be paid in lieu of the return of the member's accumulated retirement contributions.

(c) If there is no surviving spouse or dependent child to receive a benefit under subdivision (a) or (b), the member's accumulated

retirement contributions shall be paid to the member's beneficiary in a lump sum.

(d) The member's accumulated annuity deposit contributions shall be paid to the member's beneficiary in a lump sum.

(e) The payment of accumulated contributions in a lump sum shall include credited interest through the date of payment.

SEC. 16. Section 23854 of the Education Code is amended to read:

23854. (a) A survivor benefit allowance is payable upon receipt of proof of death of a member, as defined in Section 23850, who had one or more years of credited service, including deemed service under subparagraph (B) of paragraph (2) of subdivision (a) of Section 22851, at least one of which had been earned subsequent to the most recent refund of accumulated retirement contributions.

(b) For the survivor benefit allowance to be payable upon the death of a member, all of the following conditions shall be met at the time of death:

(1) Death occurred after October 15, 1992.

(2) A preretirement election of an option is not in effect.

(3) Death occurs during any one of the following periods:

(A) While in employment for which compensation is paid.

(B) Within four months after termination of service or termination of employment, whichever occurs first.

(C) Within four months after termination of disability allowance.

(D) Within four months after reinstatement from disability retirement.

(E) Within 12 months following the last day for which compensation was paid if the member was on an approved leave of absence without compensation for reasons other than disability.

(F) While on a leave of absence to perform qualified military service, if the death occurred on or after January 1, 2007.

(4) At least one-half year of credited service had been performed subsequent to the end of the last break in service, if a break in service of more than one year had occurred.

(5) At least one year of credited service had been performed subsequent to the last reinstatement date, if reinstated from service retirement.

(c) The survivor benefit allowance shall be paid in lieu of the return of the member's accumulated retirement contributions.

(d) The survivor benefit allowance may be terminated, if all eligible beneficiaries formally waive their rights in accordance with the requirements established by the system.

SEC. 17. Section 24001 of the Education Code is amended to read:

24001. (a) (1) A member may apply for a disability allowance under the Defined Benefit Program, upon written application for disability allowance to the board on a properly executed form provided by the system, if the member has five or more years of credited service and if all of the following requirements are met:

(A) At least four years were credited for actual performance of service subject to coverage under the Defined Benefit Program. Credit received because of workers' compensation payments shall be counted toward the four-year requirement in accordance with Section 22710.

(B) The last five years of credited service were performed in this state.

(C) Except as described in subdivision (d) of Section 24201.5, at least one year was credited for service performed subsequent to the date on which the member terminated the service retirement allowance under Section 24208.

(D) At least one year was credited for service performed subsequent to the most recent refund of accumulated retirement contributions.

(E) The member has neither attained normal retirement age, nor possesses sufficient unused sick leave days to receive creditable compensation on account of sick leave to normal retirement age.

(F) The member is not applying for a disability allowance because of a physical or mental condition known to exist at the time the most recent membership in the Defined Benefit Program commenced and remains substantially unchanged at the time of application.

(2) A member who becomes disabled prior to normal retirement age, who has sick leave which will extend beyond normal retirement age, and who has a dependent child, may be awarded a disability allowance with an effective date after normal retirement age if the application is filed prior to attaining normal retirement age.

(b) Nothing in subdivision (a) shall affect the right of a member to a disability allowance under this part if the reason that the

member is credited with less than four years of actual service performed subject to coverage under the Defined Benefit Program is due to an on-the-job injury or a disease that occurred while the member was employed and the four-year requirement can be satisfied by credit obtained under Chapter 14 (commencing with Section 22800) or Chapter 14.5 (commencing with Section 22850) in addition to any credit received from workers' compensation payments.

(c) Nothing in subdivision (a) shall affect the right of a member under this part who has less than five years of credited service to a disability allowance if the following conditions are met:

(1) The member has at least one year of credited service performed in this state.

(2) The disability is the direct result of an unlawful act of bodily injury that was perpetrated on his or her person by another human being while the member was performing his or her official duties in a position subject to coverage under the Defined Benefit Program.

(3) The member provides documentation of the unlawful act in the form of an official police report or official employer incident report.

(d) A member who is eligible to apply for a disability allowance pursuant to this section may also apply for a service retirement pending a determination of his or her application for disability as described in Section 24201.5.

SEC. 18. Section 24002 of the Education Code is amended to read:

24002. (a) The board may authorize payment of a disability allowance to any member who is qualified upon application under this part by the member, the member's guardian or conservator, or the member's employer, if the application is submitted on a properly executed form prescribed by the system during any one of the following periods:

(1) While the member is employed or on a compensated leave of absence.

(2) While the member is physically or mentally incapacitated for performance of service and the incapacity has been continuous from the last day of actual performance of service for which compensation is payable to the member.

(3) While the member is on a leave of absence without compensation, granted for reason other than mental or physical incapacity for performance of service, and within four months after the last day of actual performance of service for which compensation is payable to the member, or within 12 months of that date if the member is on an employer-approved leave to study at an approved college or university.

(4) Within four months after the termination of the member's employment subject to coverage under the Defined Benefit Program, if the application was not made under paragraph (2) and was not made more than four months after the last day of actual performance of service for which compensation is payable to the member.

(b) A member is not qualified to receive a disability allowance if the member is applying because of a physical or mental condition that existed at the time the most recent membership in the Defined Benefit Program commenced and which remains substantially unchanged at the time of application.

SEC. 19. Section 24003 of the Education Code is amended to read:

24003. (a) The member shall provide medical documentation to substantiate the impairment qualifying the member for the disability allowance.

(b) On receipt of an application for disability allowance under this part, the system may order a medical examination or review of medical documentation of a member to determine whether the member is incapacitated for performance of service. The medical examination or review of medical documentation shall be conducted by a practicing physician, selected by the board, with expertise in the member's impairment and the board shall pay all costs associated with the examination or review of medical documentation. If the member refuses to submit to the required medical examination or review of medical documentation, the application for disability allowance shall be rejected. If a medical examination is ordered:

(1) The member shall either remain in this state, or return to this state at the member's own expense, to undergo the medical examination, or the application shall be rejected, unless this requirement is waived by the board. The board shall pay all other reasonable costs related to travel and meals in accordance with the

rates set for state employees by the Department of Personnel Administration.

(2) If the member is too ill to be examined, the system shall postpone the examination until the member can be examined. The member or the member's treating physician shall inform the system, in writing, when the medical examination can be rescheduled.

(c) The system may reject the disability allowance application under this part if the member fails to provide requested medical documentation to substantiate a disability, as defined in Section 22126, within 45 days from the date of the request or within 30 days from the time that a legally designated representative is empowered to act on behalf of a member who is mentally or physically incapacitated.

(d) If the board determines that a member who has applied for a disability allowance under this part may perform service in the member's former position of employment or in a comparable level position with the assistance of reasonable accommodation, the board may require the member to request reasonable accommodation from the employer. Failure of the member to request reasonable accommodation, as directed by the board, may be grounds for cancellation of the disability allowance application.

(e) If the employer fails or refuses to provide reasonable accommodation, the board may require the member to pursue an administrative appeal of the employer's denial as a condition for receiving a disability allowance under this part.

(f) The system shall inform the member of the rejection or cancellation of the member's disability allowance application under this part within 30 days after that determination is made by the system.

(g) In determining whether a member meets the definition of disability pursuant to Section 22126, the board shall make a determination on the basis of competent medical documentation and shall not use the awarding of a disability allowance as a substitute for the disciplinary process.

SEC. 20. Section 24102 of the Education Code is amended to read:

24102. (a) The board may authorize payment of a disability retirement allowance under this part to any member who is qualified upon application by the member, the member's guardian

or conservator, or the member's employer, if the application is submitted on a properly executed form prescribed by the system during any one of the following periods:

(1) While the member is employed or on a compensated leave of absence.

(2) While the member is physically or mentally incapacitated for performance of service and the incapacity has been continuous from the last day of actual performance of service for which compensation is payable to the member.

(3) While the member is on a leave of absence without compensation, granted for reason other than mental or physical incapacity for performance of service, and within four months after the last day of actual performance of service for which compensation is payable to the member, or within 12 months of that date if the member was on an employer-approved leave to study at an approved college or university.

(4) Within four months after the termination of the member's employment subject to coverage under the Defined Benefit Program, if the application was not made under paragraph (2) and was not made more than four months after the last day of actual performance of service for which compensation is payable to the member.

(b) The member is not qualified to receive a disability allowance if the member is applying because of a physical or mental condition that existed at the time the most recent membership in the Defined Benefit Program commenced and which remains substantially unchanged at the time of application.

SEC. 21. Section 24103 of the Education Code is amended to read:

24103. (a) The member shall provide medical documentation substantiating the impairment qualifying the member for the disability retirement under this part.

(b) On receipt of an application for disability retirement under this part, the system may order a medical examination or review of medical documentation of a member to determine whether the member is incapacitated for performance of service. The medical examination or review of medical documentation shall be conducted by a practicing physician, selected by the board, with expertise in the member's impairment, and the board shall pay all costs associated with the examination or review of medical

documentation. If the member refuses to submit to the required medical examination or review of medical documentation, the application for disability retirement shall be rejected. If a medical examination is ordered:

(1) The member shall either remain in this state, or return to this state at the member's own expense, to undergo the medical examination or the application shall be rejected, unless this requirement is waived by the board. The board shall pay all other reasonable costs related to travel and meals in accordance with the rates set for state employees by the Department of Personnel Administration.

(2) If the member is too ill to be examined, the system shall postpone the examination until the member can be examined. The member or the member's treating physician shall inform the system, in writing, when the medical examination can be rescheduled.

(c) The system may reject the disability retirement application under this part if the member fails to provide requested medical documentation to substantiate a disability, as defined in Section 22126, within 45 days from the date of the request or within 30 days from the time that a legally designated representative is empowered to act on behalf of a member who is mentally or physically incapacitated.

(d) If the board determines that a member who has applied for disability retirement under this part may perform service in the member's former position of employment or in a comparable level position with the assistance of reasonable accommodation, the board may require the member to request reasonable accommodation from the employer. Failure of the member to request reasonable accommodation, as directed by the board, may be grounds for cancellation of the disability retirement application under this part.

(e) If the employer fails or refuses to provide reasonable accommodation, the board may require the member to pursue an administrative appeal of the employer's denial as a condition for receiving a disability retirement allowance under this part.

(f) The system shall inform the member of the rejection or cancellation of the member's disability retirement allowance application under this part within 30 days after that determination is made by the system.

(g) In determining whether a member meets the definition of disability pursuant to Section 22126, the board shall make a determination on the basis of competent medical documentation and shall not use the awarding of a disability retirement as a substitute for the disciplinary process.

SEC. 22. Section 24201.5 of the Education Code is amended to read:

24201.5. (a) A member who is eligible and applies for a disability allowance or retirement pursuant to Section 24001 or 24101 may apply to receive a service retirement allowance pending the determination of his or her application for disability, subject to all of the following:

(1) The member is eligible to retire for service under Section 24201 or 24203.

(2) The member submits the application on a form provided by the system, subject to all of the following:

(A) The application is executed no earlier than the date the application for disability benefits is executed and no earlier than six months before the effective date of the retirement allowance.

(B) The effective date is no earlier than the first day of the month in which the application for disability benefits is received at the system's headquarters office, as established pursuant to Section 22375.

(C) The effective date is later than the last day of creditable service for which compensation is payable to the member.

(D) The effective date is no earlier than one year following the date on which a retirement allowance was terminated pursuant to Section 24208 or subdivision (a) of Section 24117.

(3) The effective date of the service retirement allowance can be no earlier than the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

(4) A member who applies for service retirement under this section is not eligible to receive a lump-sum payment and an actuarially reduced monthly allowance pursuant to Section 24221.

(5) A member who applies for service retirement under this section is not eligible to receive an allowance calculated pursuant to Section 24205.

(6) (A) Except as described in subparagraph (B), a member who applies for service retirement under this section shall not

receive service credit for each day of accumulated and unused leave of absence for illness or injury or for education pursuant to Section 22717 or 22717.5.

(B) If the application for disability is denied, the member's service retirement allowance shall be adjusted to the effective date of the service retirement to include service credited pursuant to Section 22717 or 22717.5.

(7) If the application for disability is denied, a member who applies for a service retirement allowance under this section is subject to all of the following:

(A) Unless otherwise provided in this part, a member who, on his or her application for service retirement, elects an option pursuant to Section 24300.1 or 24307 may not change or revoke that option.

(B) If the member receives a modified service retirement allowance based on the election of an option pursuant to Section 24300.1 or 24307, that modified service retirement allowance shall continue in effect and unchanged.

(C) If the member did not elect an option pursuant to Section 24300.1 or 24307 and receives an unmodified service retirement allowance, that unmodified service retirement allowance shall continue in effect and unchanged.

(b) A member who applies for service retirement under this section may change or cancel his or her service retirement application pursuant to Section 24204, or may terminate his or her service retirement allowance pursuant to Section 24208.

(c) A member may not cancel his or her application for disability prior to a determination of that application unless he or she submits a written request to the system's headquarters office, as established pursuant to Section 22375. If a member elects to cancel his or her service retirement application or elects to terminate his or her service retirement allowance as described in subdivision (b), that election shall not cancel the application for disability.

(d) (1) Paragraph (3) of subdivision (a) of Sections 24001 and 24101 shall not apply to a member who cancels an application for service retirement pursuant to Section 24204 or who terminates a service retirement allowance pursuant to Section 24208, if all of the following apply:

(A) The member earned at least one year of credited service subsequent to the most recent terminated service retirement allowance.

(B) The member's application for disability under this section is pending determination by the board.

(2) If the member's application for disability under this section is denied, paragraph (3) of subdivision (a) of Sections 24001 and 24101 shall apply if the member submits a new application for disability.

(e) (1) If the board approves the application for disability, and notwithstanding subdivision (f) of Section 24204, the board shall cancel the member's application for service retirement and shall authorize payment of a disability allowance or disability retirement.

(2) If the board approves the application for disability and the member has received service retirement allowance payments under this part, the effective date for the disability allowance or disability retirement shall be the same as the effective date of the service retirement allowance.

(f) If a member who applies for service retirement under this section dies prior to a determination by the board on the application for disability, the member shall be considered retired for service at the time of death, and any subsequent benefits shall be paid accordingly.

(g) If a member who applies for service retirement under this section dies after the board has approved the member's application for disability, the member shall be considered a disabled member, or retired for disability, at the time of death, and any subsequent benefits shall be paid accordingly, even if the member died prior to receiving notification of the approval of his or her application for disability.

(h) If the member changes or cancels his or her service retirement application or terminates his or her service retirement allowance as described in subdivision (b), the system shall make appropriate adjustments to the applicable service retirement allowance, disability allowance, or disability retirement allowance, retroactive to the effective date of the disability allowance or disability retirement allowance. Subdivision (a) of Section 24617 shall not apply.

(i) The system may recover a service retirement allowance overpayment made to a member by deducting that overpayment from any subsequent disability benefit payable to the member.

(j) Nothing in this section shall be construed to allow a member or beneficiary to receive more than one type of retirement or disability allowance for the same period of time.

SEC. 23. Section 24204 of the Education Code is amended to read:

24204. (a) A service retirement allowance under this part shall become effective upon any date designated by the member, provided all of the following conditions are met:

(1) An application for service retirement allowance is filed on a form provided by the system, which is executed no earlier than six months before the effective date of retirement allowance.

(2) The effective date is later than the last day of creditable service for which compensation is payable to the member.

(3) The effective date is no earlier than one year following the date on which the retirement allowance was terminated under Section 24208, or subdivision (a) of Section 24117.

(4) The effective date is no earlier than the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

(5) The effective date is no earlier than the date upon which the member completes payment of a service credit purchase pursuant to Section 22801, 22820, or 22826, or payment of a redeposit of contributions pursuant to Section 23200, except as provided in Section 22801 or 22829.

(6) The effective date is no earlier than the first day of the month in which the application for disability benefits is received at the system's headquarters office, as established pursuant to Section 22375, if the application is made pursuant to Section 24201.5.

(b) A member who files an application for service retirement may change or cancel his or her retirement application, as long as the form provided by the system is received in the system's headquarters office, established pursuant to Section 22375, no later than 30 days from the date the member's initial benefit payment for the member's most recent retirement under the Defined Benefit Program is paid by the system.

(c) The retirement date of a member retiring on and after January 1, 2012, shall be no earlier than January 1, 2012.

SEC. 24. Section 24205 of the Education Code is amended to read:

24205. A member retiring prior to 60 years of age, and who has attained 55 years of age, may elect to receive one-half of the service retirement allowance for normal retirement age for a limited time and then revert to the full retirement allowance for normal retirement age.

(a) The retirement allowance shall be based on service credit and final compensation as of the date of retirement for service and shall be calculated with the factor for normal retirement age.

(b) If the member elects a joint and survivor option under Section 24300 or 24300.1, the actuarial reduction shall be based on the member's and beneficiary's ages as of the effective date of the early retirement. If the member elected a preretirement option under Section 24307, the actuarial reduction shall be based on the member's and beneficiary's ages as determined by the provisions of that section.

(c) One-half of the retirement allowance as of 60 years of age shall be paid for a period of time equal to twice the elapsed time between the effective date of retirement and the date of the retired member's 60th birthday.

(d) The full retirement allowance as calculated under subdivision (a) or (b) shall begin to accrue as of the first of the month following the reduction period as specified in subdivision (c). The full retirement allowance shall not begin to accrue prior to this time under any circumstances, including, but not limited to, divorce or death of the named beneficiary.

(e) The annual improvement factor provided for in Sections 22140 and 22141 shall be based upon the retirement allowance as calculated under subdivision (a) or (b). The improvement factor shall begin to accrue on September 1 following the retired member's 60th birthday. These increases shall be accumulated and shall become payable when the full retirement allowance for normal retirement age first becomes payable.

(f) Any ad hoc benefit increase with an effective date prior to the retired member's 60th birthday shall not affect an allowance payable under this section. Only those ad hoc improvements with effective dates on or after the retired member's 60th birthday shall be accrued and accumulated and shall first become payable when

the full retirement allowance for normal retirement age becomes payable.

(g) The cancellation of an option election in accordance with Section 24305 shall not cancel the election under this section. Upon cancellation of the joint and survivor option, one-half of the retired member's retirement allowance as calculated under subdivision (a) shall become payable for the balance of the reduction period specified in subdivision (c).

(h) If a retired member who has elected a joint and survivor option dies during the period when the reduced allowance is payable, the beneficiary shall receive one-half of the allowance payable to the beneficiary until the date when the retired member would have received the full retirement allowance for normal retirement age. At that time, the beneficiary's allowance shall be increased to the full amount payable to the beneficiary plus the appropriate annual improvement factor increases and ad hoc increases.

(i) This section shall not apply to a member who retires for service pursuant to Section 24201.5, 24209, 24209.3, 24210, 24211, or 24212.

SEC. 25. Section 24214 of the Education Code, as amended by Section 1 of Chapter 306 of the Statutes of 2009, is amended to read:

24214. (a) A member retired for service under this part may perform the activities identified in subdivision (a) or (b) of Section 22119.5, or subdivision (a) or (b) of Section 26113, as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system, but the member shall not make contributions to the retirement fund or accrue service credit based on compensation earned from that service. The employer shall maintain accurate records of the earnings of the retired member and report those earnings monthly to the system and retired member as described in Section 22461.

(b) If a member is retired for service under this part, the rate of pay for service performed by that member as an employee of the employer, as an employee of a third party, or as an independent contractor shall not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.

(c) A member retired for service under this part shall not be required to reinstate for performing the activities identified in

subdivision (a) or (b) of Section 22119.5 as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system.

(d) A member retired for service under this part may earn compensation for performing activities identified in subdivision (a) or (b) of Section 22119.5 in any one school year up to the limitation specified in subdivision (f) as an employee of an employer, as an employee of a third party, or an independent contractor, within the California public school system, without a reduction in his or her retirement allowance.

(e) (1) The postretirement compensation limitation provisions set forth in this section are not applicable to compensation earned by a member retired for service under this part who has returned to work after the date of retirement and, for a period of at least 12 consecutive months, has not performed the activities identified in subdivision (a) or (b) of Section 22119.5 as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system. For the purpose of this paragraph, the period of 12 consecutive months shall begin no earlier than the effective date of the member's most recent retirement.

(2) The postretirement compensation limitation provisions set forth in this section are not applicable to compensation earned for the performance of the activities described in subdivision (a) for which the employer is not eligible to receive state apportionment or to compensation that is not creditable pursuant to Section 22119.2.

(f) The limitation that shall apply to the compensation for performance of the activities identified in subdivision (a) or (b) of Section 22119.5 by a member retired for service under this part either as an employee of an employer, an employee of a third party, or as an independent contractor shall, in any one school year, be an amount calculated by the board each July 1 equal to twenty-two thousand dollars (\$22,000) adjusted by the percentage change in the average compensation earnable of active members of the Defined Benefit Program, as determined by the system, from the 1998–99 fiscal year to the fiscal year ending in the previous calendar year.

(g) If a member retired for service under this part earns compensation for performing activities identified in subdivision

(a) or (b) of Section 22119.5 in excess of the limitation specified in subdivision (f), as an employee of an employer, as an employee of a third party, or as an independent contractor, within the California public school system, and if that compensation is not exempt from that limitation under subdivision (e) or any other provisions of law, the member's retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction may be equal to the monthly allowance payable but shall not exceed the amount of the annual allowance payable under this part for the fiscal year in which the excess compensation was earned.

(h) The amendments to this section enacted during the 1995–96 Regular Session shall be deemed to have become operative on July 1, 1996.

(i) This section shall remain in effect only until June 30, 2012, and shall be repealed on January 1, 2013, unless a later enacted statute deletes or extends that date.

SEC. 26. Section 24214 of the Education Code, as amended by Section 2 of Chapter 306 of the Statutes of 2009, is amended to read:

24214. (a) A member retired for service under this part may perform the activities identified in subdivision (a) or (b) of Section 22119.5, or subdivision (a) or (b) of Section 26113, as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system, but the member shall not make contributions to the retirement fund or accrue service credit based on compensation earned from that service. The employer shall maintain accurate records of the earnings of the retired member and report those earnings monthly to the system and retired member as described in Section 22461.

(b) If a member is retired for service under this part, the rate of pay for service performed by that member as an employee of the employer, as an employee of a third party, or as an independent contractor within the California public school system shall not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.

(c) A member retired for service under this part shall not be required to reinstate for performing the activities identified in subdivision (a) or (b) of Section 22119.5 as an employee of an

employer, as an employee of a third party, or as an independent contractor within the California public school system.

(d) A member retired for service under this part may earn compensation for performing activities identified in subdivision (a) or (b) of Section 22119.5 in any one school year up to the limitation specified in subdivision (f) as an employee of an employer, as an employee of a third party, or an independent contractor, within the California public school system, without a reduction in his or her retirement allowance.

(e) The postretirement compensation limitation provisions set forth in this section are not applicable to compensation earned for the performance of the activities described in subdivision (a) for which the employer is not eligible to receive state apportionment or to compensation that is not creditable pursuant to Section 22119.2.

(f) The limitation that shall apply to the compensation for performance of the activities identified in subdivision (a) or (b) of Section 22119.5 by a member retired for service under this part either as an employee of an employer, an employee of a third party, or as an independent contractor shall, in any one school year, be an amount calculated by the board each July 1 equal to twenty-two thousand dollars (\$22,000) adjusted by the percentage change in the average compensation earnable of active members of the Defined Benefit Program, as determined by the system, from the 1998–99 fiscal year to the fiscal year ending in the previous calendar year.

(g) If a member retired for service under this part earns compensation for performing activities identified in subdivision (a) or (b) of Section 22119.5 in excess of the limitation specified in subdivision (f), as an employee of an employer, as an employee of a third party, or as an independent contractor, within the California public school system, the member's retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction may be equal to the monthly allowance payable but may not exceed the amount of the annual allowance payable under this part for the fiscal year in which the excess compensation was earned.

(h) The language of this section derived from the amendments to the section of this number added by Chapter 394 of the Statutes

of 1995, enacted during the 1995–96 Regular Session, is deemed to have become operative on July 1, 1996.

(i) This section shall become operative on July 1, 2012.

SEC. 27. Section 24214.5 of the Education Code is amended to read:

24214.5. (a) Notwithstanding Section 24214, as of July 1, 2010, the postretirement compensation limitation that shall apply to the compensation for performance of the activities identified in subdivision (a) or (b) of Section 22119.5 either as an employee of an employer, an employee of a third party, or as an independent contractor, within the California public school system, shall be zero dollars (\$0) during the first six calendar months after the most recent retirement of a member retired for service under this part, if the member is below normal retirement age at the time the compensation is earned.

(b) If a member retired for service under this part earns compensation for performing activities identified in subdivision (a) or (b) of Section 22119.5 in excess of the limitation specified in subdivision (a), as an employee of an employer, as an employee of a third party, or as an independent contractor, within the California public school system, the member's retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction may be equal to the monthly allowance payable but may not exceed the amount of the annual allowance payable under this part for the fiscal year in which the excess compensation was earned.

SEC. 28. Section 24300.1 of the Education Code is amended to read:

24300.1. (a) A member may, upon application for retirement, elect an option pursuant to this part that would provide an actuarially modified retirement allowance payable throughout the life of the member and the member's option beneficiary or beneficiaries, as follows:

(1) One hundred percent beneficiary option. The modified retirement allowance shall be paid to the member and upon the member's death, 100 percent of the modified allowance shall continue to be paid to the option beneficiary.

(2) Seventy-five percent beneficiary option. The modified retirement allowance shall be paid to the member and upon the member's death, 75 percent of the modified allowance shall

continue to be paid to the option beneficiary. Pursuant to Section 401(a)(9) of the Internal Revenue Code, unless the option beneficiary is the member's spouse or former spouse who has been awarded a community property interest in the benefits of the member under this part, the member may not designate an option beneficiary under this option who is more than exactly 19 years younger than the member.

(3) Fifty percent beneficiary option. The modified retirement allowance shall be paid to the member and upon the death of the member, 50 percent of the modified allowance shall continue to be paid to the option beneficiary.

(4) Compound option. The member may designate multiple option beneficiaries or one or multiple option beneficiaries with a designated percentage to remain unmodified. The member shall elect an option as described in paragraph (1), (2), or (3) for each designated option beneficiary that would provide an actuarially modified retirement allowance payable throughout the lives of the member and the member's option beneficiary or beneficiaries.

(A) The modified retirement allowance shall be paid to the member as long as the member and at least one option beneficiary is living. Upon the member's death, an allowance shall be paid to each surviving option beneficiary in accordance with the option elected respective to that option beneficiary. If an option beneficiary predeceases the member, the member's allowance shall be adjusted in accordance with the option elected for the deceased option beneficiary.

(B) The member shall specify the percent of the unmodified allowance that will be modified by the election of each option described in paragraph (1), (2), or (3) of this subdivision. The percent of the unmodified allowance that is not modified by an option, if any, shall be payable to the member. The sum of the percentages specified for the option beneficiary or beneficiaries and the member's remaining unmodified allowance, if any, shall equal 100 percent.

(C) The member's election of the compound option is subject to all of the following:

(i) Pursuant to Section 401(a)(9) of the Internal Revenue Code, unless the option beneficiary is the member's spouse or former spouse who has been awarded a community property interest in the member's benefits under this part, the member may not

designate an option beneficiary under the 100 percent beneficiary option within this compound option who is more than exactly 10 years younger than the member.

(ii) Pursuant to Section 401(a)(9) of the Internal Revenue Code, unless the option beneficiary is the member's spouse or former spouse who has been awarded a community property interest in the member's benefits under this part, the member may not designate an option beneficiary under the 75 percent beneficiary option within this compound option who is more than exactly 19 years younger than the member.

(b) For purposes of this section, the member shall designate an option beneficiary on a properly executed retirement application. Except as otherwise provided by this chapter, the option shall become effective on the member's retirement date.

(c) A member may revoke or change an election of an option no later than 30 days from the date the member's initial benefit payment for the member's most recent retirement under the Defined Benefit Program is paid by the system. A revocation of an option may not be made in derogation of a spouse's or a former spouse's community property rights as specified in a court order.

(d) If an option beneficiary designated pursuant to paragraphs (1) to (3), inclusive, of subdivision (a) predeceases the member, the retirement allowance shall be paid to the member without modification for the option. If the option beneficiary predeceases the member, the member may designate a new option beneficiary. The effective date of the new designation shall be six months following the date of notification is received by the board, provided both the member and the designated option beneficiary are then living. Notification shall be on a properly executed form provided by the system. The designation of the new option beneficiary pursuant to this subdivision is subject to an actuarial modification of the unmodified retirement allowance and may not result in additional liability to the fund. The new option beneficiary cannot be an existing option beneficiary.

(e) Notwithstanding Section 297 or 299.2 of the Family Code, a spouse described in paragraphs (2) and (4) of subdivision (a) does not include the domestic partner of the member, pursuant to Section 7 of Title 1 of the United States Code.

(f) If there is a determination of community property rights as described in Chapter 12 (commencing with Section 22650) of this

part on or before December 31, 2006, the member may elect the option that is required by the judgment or court order. Nothing in this part shall permit the member to change the option to the detriment of the community property interest of the nonmember spouse.

(g) The board may evaluate the existing options and annuities provided pursuant to this section, Chapter 38 (commencing with Section 25000) of this part, and Part 14 (commencing with Section 26000) and adopt, as a plan amendment, any appropriate changes to the options and annuities based on the needs of the members, participants, and their beneficiaries, including, but not limited to, providing economic security for beneficiaries and reducing the complexity of the options and annuities. The changes to the options and annuities may have no net actuarial impact on the retirement fund and the board may establish any eligibility criteria the board deems necessary to prevent an adverse actuarial impact to the fund. The board shall designate the effective date of the plan amendment, which shall be at least 18 months after the amendment is adopted by the board, and notwithstanding any other provision of this section, the options and annuities available to members and participants eligible to retire pursuant to this part and Part 14 (commencing with Section 26000), after the effective date of the plan amendment made pursuant to this subdivision, shall reflect the changes adopted as a plan amendment to this subdivision.

SEC. 29. Section 24309 of the Education Code is amended to read:

24309. (a) A member may change or cancel the election of an option made pursuant to Section 24307. The change or cancellation shall be on a properly executed form provided by the system and received at the system's headquarters office, as established pursuant to Section 22375, within 30 days of the date of the member's signature and, if applicable, the spouse's signature, and no later than 30 days from the date the member's initial benefit payment for the member's most recent retirement under the Defined Benefit Program is paid by the system. The change or cancellation shall become effective as of the date of the member's signature or the day prior to the member's retirement date, whichever is earlier.

(1) Any change to an election of an option shall be made according to Section 24307 and shall be considered a new preretirement election of an option.

(2) Regardless of how the member elects to receive his or her retirement allowance, a change made to an election of an option or a cancellation of an option shall result in the reduction of that allowance by an amount determined by the board to be the actuarial equivalent of the coverage the member received as a result of the preretirement election and that does not result in any adverse funding to the plan.

(b) If the option beneficiary designated in the preretirement election of an option pursuant to Section 24307 dies prior to the member's retirement, the preretirement election shall be canceled as of the day following the date of death and the member's subsequent retirement allowance under this part shall be subject to the allowance reduction prescribed in this section.

(c) If the option elected pursuant to Section 24307 is "Option 8" as described in paragraph (7) of subdivision (a) of Section 24300 or the compound option as described in paragraph (4) of subdivision (a) of Section 24300.1, a member may cancel the designation of an option beneficiary. If the member cancels the designation of the option beneficiary or the option beneficiary predeceases the member prior to the member's retirement, the member may elect to receive that portion of the retirement allowance without modification for the option or elect one or multiple new or existing option beneficiaries as described in Section 24307. Any change or cancellation of the designation of the option beneficiary under this subdivision shall result in the allowance reduction prescribed in this section.

SEC. 30. Section 24600 of the Education Code is amended to read:

24600. (a) A retirement allowance under this part begins to accrue on the effective date of the member's retirement and ceases on the earlier of the day of the member's death or the day on which the retirement allowance is terminated for a reason other than the member's death.

(b) A retirement allowance payable to an option beneficiary under this part begins to accrue on the day following the day of the retired member's death and ceases on the day of the option beneficiary's death.

(c) A disability allowance under this part begins to accrue on the effective date of the member's disability allowance and ceases on the earlier of the day of the member's death or the day on which

the disability allowance is terminated for a reason other than the member's death.

(d) A family allowance under this part begins to accrue on the day following the day of the member's death and ceases on the day of the event that terminates eligibility for the allowance.

(e) A survivor benefit allowance payable to a surviving spouse under this part pursuant to Chapter 23 (commencing with Section 23850) begins to accrue on the day the member would have attained 60 years of age or on the day following the day of the member's death, as elected by the surviving spouse, and ceases on the day of the surviving spouse's death.

(f) (1) Except as provided in paragraph (2), a child's portion of an allowance under this part begins to accrue on the effective date of that allowance and ceases on the earlier of either the termination of the child's eligibility or the termination of the allowance.

(2) A child's portion of a disability retirement allowance under Chapter 26 (commencing with Section 24100) ceases on the earlier of either:

(A) The termination date of the child's eligibility.

(B) The termination of the allowance for reasons other than death.

(g) Supplemental payments issued under this part pursuant to Sections 24412 and 24415 to retired members, disabled members, and beneficiaries shall begin to accrue pursuant to Sections 24412 and 24415 and shall cease to accrue as of the termination dates specified in subdivisions (a) to (f), inclusive, of this section.

(h) Notwithstanding any other provision of this part or other law, distributions payable under the plan with respect to the Defined Benefit Program and the Defined Benefit Supplement Program shall be made in accordance with applicable provisions of the Internal Revenue Code of 1986 and related regulations. The required beginning date of benefit payments that represent the entire interest of the member in the plan with respect to the Defined Benefit Program and the Defined Benefit Supplement Program shall be either:

(1) In the case of a refund of contributions, as described in Chapter 18 (commencing with Section 23100) of this part and distribution of an amount equal to the balance of credits in a member's Defined Benefit Supplement account, as described in

Chapter 38 (commencing with Section 25000) of this part, not later than April 1 of the calendar year following the later of (A) the calendar year in which the member attains the age at which the Internal Revenue Code of 1986 requires a distribution of benefits or (B) the calendar year in which the member terminates employment within the meaning of subdivision (i).

(2) In the case of a retirement allowance, as defined in Section 22166, not later than April 1 of the calendar year following the later of (A) the calendar year in which the member attains the age at which the Internal Revenue Code of 1986 requires a distribution of benefits or (B) the calendar year in which the member terminates employment within the meaning of subdivision (i), to continue over the life of the member or the lives of the member and the member's option beneficiary, or over the life expectancy of the member or the life expectancy of the member and the member's option beneficiary.

(i) For purposes of subdivision (h), the phrase "terminates employment" means the later of:

(1) The date the member ceases to perform creditable service subject to coverage under this plan.

(2) The date the member ceases employment in a position subject to coverage under another public retirement system in this state if the compensation earnable while a member of the other system may be considered in the determination of final compensation pursuant to Section 22134, 22135, or 22136.

SEC. 31. Section 25012 of the Education Code is amended to read:

25012. (a) An annuity payable under the Defined Benefit Supplement Program shall be determined as a value actuarially equivalent to the balance of credits in the member's Defined Benefit Supplement Program account on the member's retirement date and after any lump-sum payment. If a single life annuity is elected, the annuity shall be calculated using the age of the member on the member's retirement date. A member may elect a single life annuity only if the member did not elect to receive a modified allowance pursuant to Section 24300 or 24300.1. If a joint and survivor annuity is elected, the annuity shall be calculated using the age of the member and the age of the member's beneficiary on the member's retirement date. A member may elect a joint and

survivor annuity only if the member elected to receive a modified allowance pursuant to Section 24300 or 24300.1.

(b) The beneficiary designation made pursuant to Section 24307 is not applicable to benefits payable under this chapter.

SEC. 32. Section 26301 of the Education Code is amended to read:

26301. (a) Employers shall report contributions paid on behalf of each participant in each pay period, along with all other information required by the system no later than 10 working days following the last day of the pay period in which the salary was earned, and the report shall be delinquent immediately thereafter. That report shall be submitted electronically in an encrypted format provided by the system that ensures the security of the transmitted participant data.

(b) The board shall, in accordance with regulations, assess a penalty against the employer for a report submitted late or in an unacceptable form. The penalty shall be based upon the sum of the employee and employer contributions required to be reported under this part at a rate of interest equal to the regular interest rate, accruing on the balance for the period between the time the report was due and the time an acceptable report is actually received by the system.

SEC. 33. Section 26302 of the Education Code is amended to read:

26302. (a) If more or less than the contributions required by this part are paid to the plan based on salary paid to a participant, proper adjustment shall be made by the employer within 60 days of discovery or of notification by the system, and any contributions deducted in error from the participant's salary shall be returned to the participant by the employer within the same time period.

(b) The board shall, in accordance with regulations, assess penalties for late or improper adjustments pursuant to Section 26301. These penalties shall be assessed at a rate equal to the penalties imposed under subdivision (b) of Section 26301 and shall be deemed to be interest earned in the year in which the penalty is received.

SEC. 34. Section 26303 of the Education Code is amended to read:

26303. (a) Employers shall transmit to the plan the employee contributions and employer contributions with respect to the Cash

Balance Benefit Program for salary paid to each participant during the pay period no later than 10 working days following the last day of the pay period in which the salary was earned.

(b) Payments shall be delinquent on the 11th working day thereafter, and interest shall begin to accrue at the regular interest rate from that day until payment for the contributions and interest is received in full by the system. The board, in accordance with regulations, shall collect interest for late payment from the employer under this subdivision.

SEC. 35. Section 26505 of the Education Code is repealed.

SEC. 36. Section 26812 is added to the Education Code, to read:

26812. (a) A participant retired for service under this part may perform the activities identified in subdivision (a) or (b) of Section 26113 as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system, but the participant shall not make contributions to the plan. The employer shall maintain accurate records of the earnings of the retired member and report those earnings monthly to the system and retired member.

(b) If a participant is retired for service under this part, the rate of pay for service performed by that member as an employee of the employer, as an employee of a third party, or as an independent contractor shall not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.

(c) A participant retired for service under this part shall not be required to reinstate for performing the activities identified in subdivision (a) or (b) of Section 26113 as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system.

(d) If a participant retired for service under this part and receiving an annuity under the Cash Balance Benefit Program is below normal retirement age and earns compensation for performing activities identified in subdivision (a) or (b) of Section 26113 as an employee of an employer, as an employee of a third party, or as an independent contractor, within the California public school system, the participant's annuity shall be reduced by the amount of the compensation. This reduction shall only be made for compensation earned during the first 180 calendar days after a participant retired for service under this part, if the participant

is below normal retirement age at the time the compensation is earned. The amount of the reduction may be equal to the monthly annuity payable but shall not exceed the amount of the annual annuity payable under this part for the fiscal year in which the compensation was earned.

SEC. 37. Section 26813 is added to the Education Code, to read:

26813. A member retired for service under the Defined Benefit Program may perform the activities identified in subdivision (a) or (b) of Section 22119.5 and subdivision (a) or (b) of Section 26113 in any one school year up to the limitation specified in Sections 24214 and 24214.5 as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system, but the member shall not make contributions to the fund. The employer shall maintain accurate records of the earnings of the retired member and report those earnings monthly to the system and retired member as described in Section 22461.

SEC. 38. Any section of any other act enacted by the Legislature during the 2011 calendar year that takes effect on or before January 1, 2012, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, added, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to or subsequent to the enactment of this act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act that is enacted by the Legislature during the 2010 calendar year and takes effect on or before January 1, 2012, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

Approved _____, 2011

Governor